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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

0001430USU/2402

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on August 15, 2005

Signature _____

Typed or printed name Marilyn Alexander

Application Number

10/616,221

Filed

July 10, 2003

First Named Inventor

Hayden Connor

Art Unit

2125

Examiner

Charles R. Kasenge

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

 applicant/inventor. assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96) attorney or agent of record.Registration number 28,468 attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

Signature

Charles N.J. Ruggiero

Typed or printed name

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Telephone number

August 15, 2005

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.



*Total of _____ forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Hayden Connor

Serial No.: 10/616,221

For: PROCESS FOR TRANSFERRING A PHOTO IMAGE TO A MEDIUM

Filed: July 10, 2003

Examiner: Charles R. Kasenge

Art Unit: 2125

Confirmation No.: 2240

Customer No.: 27,623

Attorney Docket No.: 0001430USU/2402

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

In response to the final Office Action dated February 15, 2005, the Examiner's Interview Summary dated May 12, 2005, and the Advisory Action dated June 17, 2005, the period for response having been extended three months up to and including August 15, 2005, Applicant respectfully files herewith a Notice of Appeal and requests review of the present application before filing an appeal brief.

Related Appeals

None.

Status of the Claims

Claims 1 through 17, 19, and 20 are pending in the present application. Independent claims 1, 12 and 19 stand finally rejected under 35 U.S.C. §102(b) over U.S. Patent No. 6,231,196 to Mahacheck (Mahacheck).

Clear Errors for Review – Independent Claims 1 and 12

Independent claim 1 recites both the steps of “cutting the medium along the desired cut line via said computer aided laser system” and “etching said photo image to the medium via said computer aided laser system”. Independent claim 12 recites both the steps of “cutting the medium along an outline of said photo image via said computer aided laser system” and “writing said photo image to the medium via said computer aided laser system”.

Mahacheck is directed to a process for laser marking mirrors that vaporizes an opaque or colored coating of a mirror with a laser beam to form a laser-enhanced image. See col. 2, lines 53-67. During marking, high peak power pulses at low frequencies can increase the surface temperature of the workpiece very rapidly which can result in material vaporization of the reflective backing and minimal heat conduction into the mirror or other product. See col. 5, lines 61-64.

The Advisory Action asserts that this engraving of Mahacheck anticipates both the claimed cutting and etching steps. This assertion is clearly erroneous.

Mahacheck discloses that the laser beam sees the clear glass or plastic mirror or other decorative display or article, as transmissive and will pass through the clear layer of the transparent glass or plastic to the reflective backing. See col. 7, lines 59-62.

It is respectfully submitted that it is simply impossible for Mahacheck to cut the mirror, which it sees as transmissive. Rather, the laser of Mahacheck passes through the transparent glass to etch the backing. Thus, Mahacheck does not disclose or suggest cutting.

Accordingly, Mahachek simply does not disclose or suggest both the etching and cutting of claim 1 or both the cutting and writing of claim 12. In fact, the Examiner himself acknowledged in the Interview Summary dated May 12, 2005 that Mahachek does not disclose or suggest the steps of both cutting and etching.

Clear Errors for Review – Independent Claim 19

Independent claim 19 is directed to a picture frame that includes, in part, a protruding portion. The protruding portion has an image etched thereon and has an outline substantially similar to a contour of the picture.

Since Mahachek can not cut the transmissive glass, it simply can not disclose or suggest the protruding portion that has an outline substantially similar to a contour of the picture, as well as the image etched thereon, as recited in claim 19.

Accordingly, the laser marking of mirrors taught by Mahachek simply does not disclose or suggest the picture frame of claim 19.

Summary

In view of the above, it is respectfully submitted that the final rejection is clearly erroneous and, as such, the present application is in condition for allowance. Reconsideration and withdrawal of the rejection to all of the claims and passage of the present application to issuance are respectfully requested. Such action is solicited.

Respectfully submitted,



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August 15, 2005